

APPENDIX A

PUBLIC UTILITIES COMMISSION OF OHIO

EVALUATION OF SBC OHIO'S OPERATIONS SUPPORT SYSTEMS (OSS) TEST RESULTS

JUNE 26, 2003

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I. Background

In an Entry on November 26, 2002, the PUCO directed BearingPoint to file an Interim OSS report on December 20, 2002, directed SBC Ohio to file a proposed compliance plan for addressing unresolved test issues on December 31, 2002, and directed SBC Ohio to file three months of performance measurement data with supporting affidavits and an Ernst & Young (E&Y) audit by January 13, 2003. The PUCO also established a due date of January 31, 2003, for interested parties to file initial comments on the BearingPoint report, the E&Y audit, and the proposed compliance plan. The PUCO further established a due date of February 7, 2003, for reply comments in regard to the three filings mentioned above.

The attorney examiner on January 10, 2003, issued an entry granting in part and denying in part the motions filed by numerous interested entities for an extension of time to file initial and reply comments. Accordingly, the due dates for the filing of initial comments and reply comments were extended to February 5 and February 14, 2003, respectively. In the sections below, the PUCO addresses the BearingPoint Report, the E&Y audit and the related comments.¹ Finally, the PUCO delineates its conclusions regarding the BearingPoint Report and the E&Y audit.

II. PUCO Review of the BearingPoint Test Results

The PUCO, in the detailed analysis presented below, will only address the current unresolved test criteria in the OSS test, as of May 23, 2003². All OSS test criteria that have either been successfully resolved before BearingPoint published its initial OSS report on December 20, 2002, or that have since been successfully resolved, will not be addressed.

¹ The PUCO discussion and determinations relative to SBC Ohio's proposed compliance plan are addressed in the PUCO Compliance Order issued on June 26, 2003.

The BearingPoint Report summarizes the results of the three major test domains: (1) Processes and Procedures Review (PPR), (2) Transaction Verification and Validation (TVV), and (3) Performance Metrics Review (PMR).

1. Evaluation of the current status of the PPR test domain

The PPR test is an evaluation of the systems, processes and other operational components associated with SBC Ohio's establishment and maintenance of business relationships with Ohio CLECs. An assessment of SBC Ohio's provisioning of continuous operational support to meet the business needs of Ohio CLECs in a nondiscriminatory manner is also included in this test.

The PPR test domain includes an evaluation by BearingPoint of 313 test criteria. As of May 23, 2003, 300 criteria are identified as "Satisfied" by BearingPoint; three criteria are identified as "Indeterminate", and the remaining ten criteria are identified as "Not Applicable". In regard to the three criteria classified as "Indeterminate"; namely PPR5-12-B, PPR5-14-B, and PPR9-28, BearingPoint concludes that there are no activities to observe, evaluate, and test.

2. Evaluation of the current status of the TVV test domain

The TVV test is an evaluation of SBC Ohio's systems and operational components associated with machine-to-machine, manual, and graphical user interface transactions. An assessment of SBC Ohio's compliance with all performance measurements and the provisioning of OSS functionalities in a nondiscriminatory manner is also included in the TVV test domain.

The TVV test includes an evaluation of 197 test criteria. As of May 23, 2003, BearingPoint has identified 173 TVV criteria as "Satisfied", 17 criteria as "Not Satisfied",

² BearingPoint issued a revised Ohio OSS Report on May 23, 2003.

five criteria as “Indeterminate”, and the remaining two criteria as “Not Applicable”. With respect to the five “Indeterminate” criteria, BearingPoint states that there are no CLEC commercial activities related to dark fiber and enhanced extended links (EEL) in Ohio. Therefore, testing of such activities will not be conducted.

As for the 17 TVV criteria that continue to be marked “Not Satisfied”, the following is a summary of BearingPoint’s determinations:

TVV1-23: An analysis of whether SBC Ameritech provides timely nonmechanized reject messages in response to electronically submitted orders – This criterion is tied to the resolution of Exception 67.³ BearingPoint has now indicated that, pursuant to the new PUCO-adopted business rules (Version 1.9, adopted by PUCO Entry on January 30, 2003), this exception will be resolved.

TVV1-24: An analysis of whether SBC Ameritech provides timely nonmechanized reject messages in response to manually submitted orders – This criterion is tied to the resolution of Exception 158.⁴ BearingPoint has now indicated that, pursuant to the new PUCO-adopted business rules (Version 1.9, adopted by PUCO Entry on January 30, 2003), this exception will be resolved.

TVV1-28: An analysis of whether SBC Ameritech provides timely completion notices – This criterion is tied to the resolution of Exception 18.⁵ The resolution of this exception is addressed in the PUCO Compliance Order.

TVV2-4, TVV2-5, TVV2-6, TVV2-9, TVV2-10, TVV2-12, TVV2-15, TVV2-17, TVV2-26, TVV2-27, and TVV2-37: An analysis of whether SBC Ameritech systems provide timely responses during the volume test – The

³ Exception 67-SBC Ameritech’s EDI systems returned late nonmechanized reject responses.

⁴ Exception 158- SBC Ameritech returned late manual reject responses to orders submitted by the test CLEC.

⁵ Exception 18- SBC Ameritech did not provide service order completion (SOC) responses on the due date listed on the firm order completion (FOC) responses.

eleven delineated TVV test criteria are designed to test SBC Ameritech's preordering and ordering systems during high volume periods (often referred to as the "volume test"). The volume test evaluates SBC Ameritech's preordering and ordering system responses to preorder inquiries and orders processed via EDI, CORBA and GUI. All eleven criteria are tied to the resolution of Exception 112.⁶ BearingPoint indicates that retesting this exception would necessitate the following:

- SBC Ameritech would need to perform system changes between its EDI translator and its firewall.
- SBC Ameritech would need to develop a new set of forecasts for EDI, CORBA and GUI data.
- BearingPoint would need to execute two new normal day volume tests, one peak day test, and one stress day test.
- BearingPoint would need to lease certain software that has expired for the purposes of conducting the four volume tests.

The resolution of Exception 112 is addressed in the PUCO Compliance Order.

TVV4-27: An analysis of whether post-order customer service records (CSRs) were consistent with required field inputs from submitted pre-order CSRs – This criterion is tied to the resolution of Exception 31.⁷ The resolution of this exception is addressed in the PUCO Compliance Order.

TVV6-16: An analysis of whether the trouble ticket test (MLT) transaction response time during peak volume testing for plain old telephone service (POTS) was consistent with benchmark data – This criterion is tied to the

⁶ Exception 112-SBC Ameritech did not provide timely and expected responses during preorder and order volume testing.

⁷ Exception 31-BearingPoint has observed instances where SBC Ameritech has failed to accurately update the customer service inquiry records.

resolution of Exception 21.⁸ According to the BearingPoint results, the impact of the degradation of OSS performance due to the volume test was significant (an increase from an MLT timeliness median of 32 seconds during a normal day to an MLT timeliness median of 62 seconds during the peak day test). BearingPoint, however, states that an MLT timeliness median of 62 seconds computed during the peak day test for SBC is similar to the MLT timeliness range observed in other RBOC regions (generally, in the 45-60 seconds range).

TVV7-14: An analysis of whether special circuit end-to-end trouble reports contained closeout codes that accurately defined the trouble condition – This criterion is tied to the resolution of Exception 131.⁹ The resolution of this exception is addressed in the PUCO Compliance Order.

3. Evaluation of the current status of the PMR test domain

The PMR test is an evaluation of SBC Ohio's systems, processes and operational components associated with the support for posting performance metrics (*i.e.*, wholesale quality of service standards). This test will audit whether SBC Ohio has properly implemented the PUCO-ordered performance measurement standards, whether the data sources used for the computation of these standards are reliable, and whether the performance measurement reports that are posted monthly on CLEC-online are accurate.

The PMR test includes an evaluation of 302 test criteria. As of May 23, 2003, BearingPoint has identified 127 PMR criteria as "Satisfied", 74 criteria as "Not Satisfied", 69 criteria as "Indeterminate", and the remaining 32 criteria as "Not Applicable". The PMR test has been ongoing in Ohio for about two years, and according to SBC Ohio and BearingPoint, it is scheduled to conclude in late August, 2003.

⁸ Exception 21-Under volume conditions simulating year-end 2002, the Ameritech Electronic Bonding Trouble Administration II Graphical User Interface Web Application processed mechanized loop test transactions at a significantly degraded level of service for timeliness.

⁹ Exception 131-SBC Ameritech has not met accuracy of close out coding benchmarks on end-to-end trouble faults.

The five test modules for the PMR test domain are generally referred to as PMR1, PMR2, PMR3, PMR4, and PMR5. PMR1 evaluates SBC Ohio's policies for collecting and storing source data that are processed in SBC Ohio's information systems, and processed data that are utilized in the computation of performance metrics. The PMR2 test module evaluates SBC Ohio's policies and practices that are used in the development, documentation, and publication of the performance metrics. The PMR3 test module is an assessment of SBC Ohio's ability to manage changes in performance metrics, and SBC Ohio's ability to communicate these changes to the PUCO and the Ohio CLECs. PMR4, often referred to as the data integrity test, assesses SBC Ohio's overall policies and practices for data processing and performance metrics production. Lastly, PMR5, often referred to as the data replication test, is a comparative analysis of the rules that SBC Ohio uses to compute the performance metrics and BearingPoint's implementation of the PUCO-approved business rules for wholesale and retail data.

According to the latest BearingPoint test results, as of May 23, 2003, both PMR2 and PMR3 have been successfully completed. As for PMR1, PMR4, and PMR5, which constitute critical aspects of the PMR test domain, a number of criteria continue to be "Indeterminate" or "Not Satisfied". Additionally, there are several observations and exceptions that are associated with the PMR1, PMR4, and PMR5 test modules that continue to be unresolved and are currently in retest. All exceptions and observations associated with the PMR1, PMR4, and PMR5 test modules will be resolved pursuant to the PUCO Compliance Order.

III. Summary of the Comments Regarding the December 20, 2002, BearingPoint OSS Report

1. SBC Ohio Initial Comments/Affidavits (filed on February 5, 2003)

SBC Ohio states that the BearingPoint OSS status report includes an examination of 498 test criteria in the areas of preordering, ordering, provisioning, maintenance and repair, billing, and relationship management. SBC Ohio further states that the BearingPoint report also examines 107 additional items that confirm SBC Ohio's compliance with the A-AA stipulation document, which was adopted by the PUCO in its Entry of June 25, 2001.

SBC Ohio asserts that the TVV and PPR portions of the BearingPoint OSS test results confirm that it has satisfied 468 out of a total of 498 criteria, resulting in an average success rate of 94 percent across the five functional OSS areas ([1] preordering and ordering, [2] provisioning, [3] maintenance and repair, [4] billing, and [5] volume assessment) and relationship management. Specifically, SBC states that it has satisfied 88.5, 91.7, 98.4, 98.9, 80.6, and 98.5 percent of the test criteria in order management (preordering and ordering), provisioning, maintenance and repair, billing, volume assessment, and relationship management, respectively.

As for the PMR portion of the test results, SBC Ohio states that it has 61 test criteria marked "Satisfied", 120 test criteria marked "Not Satisfied", 90 test criteria marked "Indeterminate", and 32 test criteria marked "Not Applicable". SBC Ohio argues that many of the test criteria marked "Not Satisfied" are, in its opinion, not material to competition, and thus, should not be used as conclusive evidence that SBC Ohio has not met the competitive checklist in Ohio. SBC Ohio concludes that it is not necessary for all aspects of the PMR test to be closed out before the PUCO reaches a conclusion on SBC's compliance with the competitive checklist requirements in Ohio. SBC Ohio notes that the FCC granted approval

to Bell South in its 271 Georgia and Louisiana applications before the completion of all aspects of the performance metrics test; namely the replication of data.

SBC Ohio states that BearingPoint, in its evaluation of the A-AA implementation list, reports that only six out of a total of 107 items have not been verified. Of these six items, SBC Ohio states that four have been classified as “Unable to Verify” while the remaining two items have been identified as “Not Verified”, and are currently in retest per Observation Report 698.

In its conclusion, SBC Ohio states that if the BearingPoint OSS test results, the commercial volumes, and the wholesale performance results are taken into consideration in their totality, the company believes that it has met the OSS-related requirements of the competitive checklist in Ohio. SBC Ohio also believes the PUCO has all the information it needs to make a positive recommendation to the FCC.

2. AT&T and TCG Initial Comments/Affidavits (filed on February 5, 2003)

AT&T states that SBC Ohio has missed an essential component that is necessary in order for the BOC to move forward with a 271 application in Ohio. Specifically, due to the lack of reliability and accuracy in its performance measurement reporting systems, SBC Ohio is unable to prove nondiscriminatory wholesale treatment. AT&T references the order in the Kansas/Oklahoma 271 applications where the FCC stated that the reliability and accuracy of the reported performance measurement data is a very critical component. AT&T asserts that the BearingPoint report confirms the AT&T experience with the SBC Ohio OSS.

AT&T claims that SBC Ohio does not have the right to state that it has successfully completed the OSS test in Ohio. The exist criteria in the Ohio MTP, which was jointly filed by the OSS collaborative and adopted by the PUCO, have not all been satisfied. AT&T points to a large number of criteria that continue to be marked “Not Satisfied” by BearingPoint. For example, some of the OSS functionalities that continue to be marked “Not

Satisfied” in the TVV domain include: timeliness issues, flow-through issues, inability to accommodate large volumes, inaccuracies in updating critical CSRs and directory listings, and inaccuracies in maintenance and repair coding (Affidavit of Timothy M. Connolly, February 5, 2003 and Affidavit of Karen W. Moore, February 5, 2003).

AT&T additionally stresses the lack of reliability and accuracy in the reported performance measurement data. Specifically, AT&T highlights the PMR test domain results in terms of the data integrity exceptions, replication exceptions and the inability to provide three consecutive months of accurate performance measurement data.

AT&T, in its conclusion, states that, while the decision to go ahead with an Ohio OSS test to assess SBC Ohio’s readiness for Section 271 approval was the right one, the test should be concluded by BearingPoint and all the exceptions must be resolved prior to the PUCO issuing its conclusion in this case.

3. CoreComm Initial Comments/Affidavits (filed on February 5, 2003)

CoreComm asserts that the BearingPoint report confirms that SBC has not passed the OSS test in Ohio. CoreComm further asserts that granting SBC Ohio 271 relief should not be based on a test that has not been concluded. CoreComm disagrees with SBC Ohio’s decision to move ahead and request the PUCO for a conclusion in this case while the BearingPoint test is not concluded.

CoreComm highlights the importance of source data integrity and performance measurement data accuracy and cites to the PUCO’s Entry on Rehearing in Case No. 02-579-TP-CSS, in regard to these issues.

CoreComm asserts that it continues to experience problems with receiving bills from SBC Ohio for facilities that are no longer used by CoreComm, continues to receive inaccurate bills for special circuits that were converted to EELs, and continues to receive untimely line loss notifications (Affidavit of James D. Webber, February 5, 2003). CoreComm states that

so long as the BearingPoint PMR test is not completed, the CLECs will not be assured the nondiscriminatory treatment that is required of SBC Ohio. CoreComm, in its conclusion, recommends that the PUCO should suspend the issuance of its decision regarding SBC Ohio's readiness for Section 271 approval until Phase III of this proceeding has been completed.

4. WorldCom Initial Comments/Affidavits (filed on February 5, 2003)

WorldCom states that it is premature for the PUCO to issue its decision in this case. WorldCom asserts that the BearingPoint third-party OSS test has not concluded, and that there are only 61 criteria out of 303 PMR criteria that have been marked "Satisfied". As for the TVV and PPR test domains, WorldCom reports that SBC Ohio has satisfied 299 out of 313 and 170 out of 197 applicable criteria, respectively.

While both the TVV and PPR tests appear to be passing with higher percentages, WorldCom asserts that certain critical exceptions remain unresolved according to BearingPoint. In support of its position, CoreComm references that the PUCO, in its Entry on Rehearing in 02-579, took administrative notice of several BearingPoint Exception Reports, including Exceptions 18 and 31. WorldCom further asserts that the PUCO in the referenced complaint case recognized that these unresolved exceptions are consistent with the allegations that CoreComm made in regard to SBC Ohio's OSS.

WorldCom recommends that the PUCO's decision should not be concluded until both Exceptions 19 and 20 have been resolved in the PMR test. These two exceptions were opened in November of 2001. WorldCom states that the main reason for the delay in retesting the two referenced PMR exceptions is due to the obstacles and constraints that were under SBC Ohio's control. For example, WorldCom asserts that BearingPoint did not receive a complete set of documentation for all performance metrics until August of 2002.

WorldCom claims that further support for its claim that the SBC Ohio OSS reporting systems are not functioning properly is the unusually high number of restatements of SBC Ohio's performance measures. A restatement is generally made when SBC Ohio discovers an error in its performance measurement calculations.

WorldCom additionally claims that Exception 112, which is related to the volume test, and Exception 113, which is related to the time stamping of EDI preorders, are both very critical, and both remain unresolved. While these two exceptions can be rectified, WorldCom claims that SBC Ohio has declined to address them.

In its conclusion, WorldCom requests that the PUCO refrain from issuing a decision in this case until BearingPoint has concluded all of its tests according to the Ohio MTP. At that time, WorldCom avers that Phase III of this proceeding would be completed, and the PUCO will be assured that SBC Ohio is providing nondiscriminatory access to its OSS.

5. OCC Initial Comments/Affidavits (filed on February 5, 2003)

OCC states that the BearingPoint OSS Report that was submitted on December 20, 2002, is just an interim report, inasmuch as several major test domains have not been completed. Specifically, OCC identifies the problems related to timeliness and performance measures and points out that, according to the report, SBC Ohio has failed 120 out of the 303 PMR criteria and 20 out of the 197 TVV criteria. As a result, OCC asserts that the BearingPoint report validates that SBC Ohio has not passed the "military-style" test.

OCC states that SBC Ohio is attempting to modify the third-party OSS test that it previously agreed to, and which was previously adopted by the PUCO. Specifically, OCC asserts that SBC Ohio is now asking the PUCO to review its 271 application prior to the completion of the Ohio OSS test, conditioned upon a future commitment to address issues that continue to be identified as unresolved under the test. OCC believes that such an approach is contrary to the OSS test that SBC Ohio agreed to, requiring satisfactory performance for each of the criteria defined in the Ohio MTP. In light of the fact that SBC Ohio has not passed all

of the test criteria, OCC opines that the PUCO cannot make a decision at this time as to whether or not SBC has met the requirements of Section 271 of the 1996 Act.

OCC believes that properly functioning OSS is a necessary condition for a healthy competitive local market. Therefore, OCC attests that if SBC Ohio is granted 271 relief prior to the completion of the third-party OSS test, and if SBC Ohio is also eventually successful in eliminating UNE-P, local competition in Ohio will be adversely impacted. It is for this reason that OCC recommends that the PUCO defer its conclusion in this case until subsequent to the completion of the OSS “military-style” test in Ohio. OCC also recommends that should the PUCO decide to endorse SBC Ohio’s 271 application, it should be conditioned upon a requirement that the UNE-P continue to be an offering in Ohio at reasonable rates. Additionally, OCC recommends that in the event that the level of local competition declines in Ohio subsequent to the company being granted Section 271 relief, SBC Ohio should no longer be entitled to avail itself of elective alternative regulation treatment.

6. SBC Ohio Reply Comments/Affidavits (filed on February 14, 2003)

SBC Ohio disagrees with the CLECs’ and OCC’s request for the PUCO to ignore the totality of evidence demonstrating its checklist compliance in Ohio, simply due to the fact that the BearingPoint test has not yet concluded. SBC Ohio asserts that the BearingPoint test is almost complete and that in terms of OSS functionality, it has an overall grade of 94 percent in Ohio. SBC Ohio further asserts that none of the criteria that have been identified as “Not Satisfied” by BearingPoint are material to the existence of competition. In addition, SBC Ohio attributes some of the criteria marked “Not Satisfied” to extremely high benchmarks that were preset by BearingPoint. As to other “Not Satisfied” designations, SBC Ohio points out that these criteria are either currently being retested by BearingPoint, and SBC Ohio expects successful results, or will be addressed in the proposed compliance/internal improvement plan. SBC Ohio, therefore, concludes that the BearingPoint report demonstrates that SBC Ohio’s OSS functionalities are fully ready and capable to handle the current and foreseeable future CLEC demand volumes.

As to the PMR test domain, SBC Ohio states that the BearingPoint test is moving at a very slow rate due to the fact that BearingPoint is replicating 100 percent of the performance measures for a period of three consecutive months. SBC Ohio, however, asserts that significant progress has been made since the initial publications of Exceptions 19 and 20.¹⁰ SBC Ohio represents that in early 2002, the company and BearingPoint met extensively to develop an understanding as to the SBC Ohio documentation required in order for BearingPoint to fully replicate each of the more than 2300 performance sub-measures. SBC Ohio represents that by August 2002, it had met BearingPoint's documentation requirements.

Finally, SBC Ohio asserts that there is no FCC requirement that the third-party OSS test be concluded prior to the filing of a 271 application.

7. AT&T and TCG Reply Comments/Affidavits (filed on February 14, 2003)

AT&T asserts that the FCC requires evidence of positive real commercial experience in an RBOC region before it would grant Section 271 relief. AT&T disagrees with SBC Ohio's claim that its OSS functions are fully ready and capable of handling the CLEC's demands in Ohio. Rather, AT&T states that its commercial experience with the SBC Ohio OSS functions has been very negative (Reply Affidavit of DeYoung and Willard, February 14, 2003). AT&T further contends that the SBC Ameritech OSS systems are unstable and unreliable, and lag behind the other non-Ameritech SBC states.

AT&T emphasizes that while the BearingPoint test has not concluded, the test continues to demonstrate the lack of reliability and integrity of the performance metrics data.

¹⁰ Exception 19-SBC Ameritech's data retention policies regarding source data do not enable thorough and complete audits to be conducted or facilitate the resolution of potential disputes which may arise between the CLECs, SBC Ameritech, and the regulatory agencies regarding the correct reporting of performance measurement results.

Exception 20- The procedures and controls that SBC Ameritech has in place for performance measurement calculation and reporting are inadequate.

AT&T further states that although the SBC Ohio comments paint a positive picture on the BearingPoint report, the PUCO should not rely on these comments (Reply Affidavit of Timothy M. Connolly, February 14, 2003).

AT&T, in its conclusion, asks the PUCO to direct SBC Ohio to comply with its previous orders. Specifically, AT&T believes that SBC Ohio should be directed to continue with the Ohio MTP until the OSS test is fully completed. AT&T suggests that the PUCO should recommend to the FCC that SBC Ohio be required to fix all of its OSS functionalities and performance measurement problems prior to the FCC granting Section 271 relief in Ohio.

8. WorldCom Reply Comments/Affidavits (filed on February 14, 2003)

WorldCom reiterates that although SBC Ohio has satisfied a number of BearingPoint test criteria, a number of critical criteria have yet to be resolved. WorldCom requests that the PUCO not issue its decision in the 271 case until all critical criteria have been resolved in the BearingPoint third-party OSS test. In this way, WorldCom believes that the CLECs will have the opportunity to continue the ongoing dialogue with SBC Ohio and BearingPoint regarding OSS problems. In the event that the PUCO agrees with SBC Ohio that the checklist has been met, WorldCom asks that the PUCO grant the CLECs the right to continue to be involved with SBC Ohio, BearingPoint, and staff in resolving all remaining exceptions and observations.

WorldCom states that even during the BearingPoint test, it continues to experience problems with line loss notifications. Specifically, WorldCom identifies a problem in which, beginning January 2003, SBC Ameritech failed to properly transmit over 3,000 line loss notifications in its Midwest region. WorldCom attributes this problem to SBC Ameritech's failure to notify CLECs regarding a change to the format of line loss transmissions. WorldCom asserts that this problem would not have been identified by BearingPoint since the third-party OSS test did not review the actual line losses to CLECs but, rather, reviewed an internal SBC Ameritech database that reflected that line losses had been created for

transmission to CLECs. WorldCom also discusses its continued difficulties in receiving accurate service order completion notices as highlighted in Exception Report 18.

WorldCom states that the most critical aspect of the OSS test that continues to be unresolved is the performance measures exceptions related to data replication, data accuracy, and data integrity. For these exceptions, WorldCom insists that the test must continue until all metrics-related exceptions have been closed with a “Satisfactory” determination by BearingPoint.

9. OCC Reply Comments/Affidavits (filed on February 14, 2003)

OCC agrees with the AT&T, WorldCom, and CoreComm that the BearingPoint test results demonstrate strong evidence of failure of SBC Ohio’s OSS functionalities and SBC Ohio’s failure to comply with the competitive checklist. OCC states that the negative “real world” experiences that the Ohio CLECs face are consistent with the test results documented in the BearingPoint interim OSS report. OCC asserts that, at best, the record in this case demonstrates the short-term competitive gains of CLECs despite the weakness of SBC Ohio’s OSS. OCC believes that the PUCO should focus on ensuring that SBC Ohio’s OSS are fully functional and nondiscriminatory toward the CLECs in Ohio in order to assist in the long-term success of local competition in SBC Ohio’s service area.

OCC concludes that SBC Ohio is purposely distancing itself from the Ohio MTP, despite the fact that it is a signatory party. OCC emphasizes that the Ohio MTP requires a “military style” test and that SBC Ohio is unable to pass all of the test criteria it agreed to in the MTP, even after over two years of testing. Therefore, OCC believes that SBC Ohio is asking the PUCO to conclude its review based on an incomplete record.

PUCO Discussion

The largest dispute among the parties in the comments and reply comments in regard to the BearingPoint OSS report is, as expected, whether or not the PUCO should support SBC Ohio in its application to the FCC for Section 271 relief based on the BearingPoint interim OSS test results. On the one hand, we have SBC Ohio stating that it has passed most of the OSS functionality tests (i.e., all of the PPR test and most of the TVV test), and committing to complete the BearingPoint PMR test at a later date. On the other hand, we have the commenting CLECs and OCC stating that the most critical component of the OSS test is the PMR test domain. The CLECs believe that SBC Ohio is failing the PMR test and that the SBC Ohio OSS systems are unstable and unreliable. Therefore, the commenting CLECs and OCC believe that SBC Ohio should not be granted 271 relief until it has successfully completed the PMR test that it agreed to more than two years ago.

First, with respect to the PPR test domain, the PUCO believes that this domain has all been successfully completed. Second, with respect to the TVV test domain, the PUCO agrees with SBC Ohio that it has, for the most part, passed all OSS functionality criteria. As to the TVV test criteria that continue to be identified as “Not Satisfied” and for which further examination is necessary, the PUCO believes that the recently proposed SBC Ohio compliance and internal improvement plans, and as further discussed in the PUCO Compliance Order, to be sufficient.

Additionally, to ensure that SBC Ohio is held to its latest proposed compliance and internal improvement plans, the PUCO, in its Compliance Order today, will require SBC Ohio to file a complete set of Ohio-specific compliance obligations within seven days. Consistent with the aforementioned conclusions, and as directed in the PUCO Compliance Order, BearingPoint is instructed to discontinue all TVV and PPR activities in Ohio.

While recognizing that the PMR test domain is a critical component of the OSS test, the PUCO is cognizant of the fact that the BearingPoint PMR test that is being conducted in

Ohio is an exhaustive and very demanding test with a high degree of complexity. The PUCO disagrees with the commenting CLECs and OCC that the pending PMR test criteria demonstrate SBC Ohio's failure of the BearingPoint OSS test. The PUCO submits that SBC Ohio's inability to currently satisfy specific PMR test criteria is not indicative of SBC Ohio's failure of the third-party test, but rather signifies that additional improvements are necessary to ensure future quality, reliability, and integrity of the performance metrics data. To this end, the PUCO is issuing a Compliance Order today that will accept SBC Ohio's commitment to complete the PMR test per the requirements of the Ohio MTP. A failure to complete the PMR test by a specified date that is attributed to SBC Ohio will result in financial sanctions. The PUCO will continue to closely monitor the progress of the BearingPoint third-party OSS test and will focus its attention on the cause of future delays.

In summary, after reviewing the latest BearingPoint report (issued on May 23, 2003), the PUCO observes a significant level of improvement in SBC Ohio's OSS test results. Therefore, the PUCO believes that for the purposes of Section 271 relief, SBC Ohio has satisfied all OSS-related checklist requirements. As for addressing all pending TVV and PMR test criteria, which constitute future quality enhancements to SBC Ohio's OSS, the PUCO Compliance Order will ensure that SBC's commitments for addressing and resolving these criteria will be met in Ohio.

IV. Summary of the Comments Regarding the E&Y Report/Affidavit of James D. Ehr (filed on January 13, 2003)¹¹

1. SBC Ohio Initial Comments/Affidavits (filed on February 5, 2003)

SBC Ohio describes that the PMR domain is comprised of basically two major components; the review of processes and procedures for evaluating how SBC Ohio internally manages data and communicates changes for each of the 150 performance metrics (PMR2 and PMR3), and the review of processes and procedures for source data collection, source data integrity, performance metrics data computation, and performance metric data reporting accuracy (PMR1, PMR4, and PMR5).

SBC Ohio reports that PMR2 and PMR3 are almost complete. SBC Ohio also acknowledges that portions of PMR1, PMR4 and PMR5 are not complete. It is for this reason that SBC Ohio has decided to also submit data from another audit performed by E&Y, as well as additional set of performance data discussed in the affidavit of James D. Ehr (filed on January 13, 2003). Mr. Ehr's affidavit contains performance metrics data for the months of September, October and November of 2002. The E&Y audit was conducted on performance metrics data for the months of March, April and May of 2002. SBC Ohio states that the purpose of the E&Y submission is not to replace BearingPoint's PMR1, PMR4, and PMR5 tests but, rather, to assure the PUCO that SBC Ohio's performance metrics data can be relied upon for the purpose of complying with the competitive checklist.

SBC Ohio states that the E&Y report demonstrates its "substantial" compliance with the PUCO-adopted performance metrics' business rules. SBC Ohio believes that for those

¹¹ On June 18, 2003, SBC Ohio filed a revised E&Y audit report.

performance metrics where E&Y found SBC Ohio not in compliance, these are either not material to competition or have already been addressed. SBC Ohio asserts that the September-November 2002 commercial data discussed in SBC Ohio Ehr's affidavit, accompanied by the E&Y audit of the March-May 2002 data, demonstrate that the company provides Ohio CLECs with nondiscriminatory access to all OSS functions as required by the competitive checklist. Additionally, SBC Ohio states that the Ohio CLECs have always had the right to ask for a mini audit if a particular performance metric reported by SBC Ohio is not in agreement with what a CLEC believes it should be. SBC Ohio represents that no Ohio CLEC has requested a mini audit.

SBC Ohio, in its conclusion, states that the unresolved exceptions in BearingPoint's report are not sufficient to cause a finding of noncompliance by the PUCO. SBC Ohio asks the PUCO to consider the totality of information available; namely, the BearingPoint results, the commercial data, as presented in SBC Ohio Ehr's affidavit, and the E&Y audit results.

2. AT&T and TCG Initial Comments/Affidavits (filed on February 5, 2003)

AT&T contends that the additional commercial performance metrics data submitted by AT&T is unreliable and unstable (Affidavits of Timothy M. Connolly and Karen W. Moore, February 5, 2003). AT&T believes that the unreliability of the data should cause a concern to the PUCO as the quality of the enforcement of wholesale service standards using the adopted business rules would be compromised.

Specifically, AT&T states that the commercial data submitted in SBC Ohio Ehr's Affidavit is insufficient to prove compliance. AT&T further states that SBC Ohio Ehr's explanation of the performance metrics' failures is nothing more than an attempt to convince the PUCO that SBC Ohio is "close enough". AT&T points to SBC Ohio's reliance on arguments that any current OSS failures are not "material" or "not competition affecting". First, AT&T asserts that SBC Ohio is using the "materiality" concept only when it is in its favor. In other words, when there is a "close miss" for a particular performance metric, then

this miss is not “materially” significant and, thus, SBC Ohio believes that it should be treated as a pass for compliance purposes. When there is a “close pass”, however, SBC Ohio claims an unconditional pass.

Further, AT&T asserts that all PUCO-adopted performance measures in Ohio are important. The PUCO, AT&T attests, has not classified the performance metrics that were adopted in Ohio into two groups: “competition affecting” and “not competition affecting”.

AT&T downplays the commercial data submitted by SBC Ohio inasmuch as the data are not validated by the E&Y audit, which was conducted on a different set of months. AT&T further attests that the E&Y audit does not have the breadth and depth of the BearingPoint PMR test. Additionally, AT&T contends that the E&Y audit does not always address all of the prospective actions taken by SBC Ohio to fix the identified violations, and it fails to address all aspects of the PMR1, PMR4, and PMR5 test as defined in the Ohio MTP. AT&T believes that SBC Ohio selected E&Y with the sole purpose of substituting the failures identified in the PMR1, PMR4, and PMR5 test results of BearingPoint with the audit results of E&Y.

Finally, AT&T provides that even the E&Y audit found SBC Ohio’s performance metrics data to be unstable. AT&T specifically identifies E&Y’s finding that certain performance metrics lack sufficient controls to ensure their accuracies and, therefore, restatements are necessary on a prospective basis. In its conclusion, AT&T asks the PUCO not to rely on the E&Y audit due to its inconsistency with the Ohio MTP, and again requests that the PUCO delay its decision in this proceeding until all data integrity and data accuracy exceptions have been successfully resolved in the context of the BearingPoint PMR test.

3. CoreComm Initial Comments/Affidavits (filed on February 5, 2003)

CoreComm, in its comments, states its objection to the filing of the E&Y audit. CoreComm claims that the E&Y report is self-serving, and is filed by SBC Ohio in an effort

to bypass the collaborative process that was set up to determine SBC Ohio's compliance with the competitive checklist. CoreComm asserts that the E&Y audit should have no bearing on the PUCO's decision as it was conducted under the control of SBC Ohio. The E&Y audit, according to CoreComm, "is circular"; SBC Ohio instructed E&Y what to audit, and what interpretations to use, and E&Y audited accordingly. Furthermore, CoreComm asserts that the E&Y audit is very limited in scope when compared to the PMR test in the Ohio MTP.

CoreComm states that, unlike the BearingPoint OSS test, the PUCO and its staff had no administrative authority over the E&Y audit. Additionally, unlike the BearingPoint test, the Ohio CLECs were not provided an opportunity to participate in a collaborative manner. CoreComm points out that even the E&Y audit disclosed several business rule violations (Attachment A of the E&Y report - Exceptions to Compliance).

4. WorldCom Initial Comments/Affidavits (filed on February 5, 2003)

WorldCom states that the three months of commercial data presented in SBC Ohio Ehr's Affidavit is unreliable. WorldCom claims that even the E&Y audit, which is extremely limited in scope when compared to the PMR test in the Ohio MTP, found instances of noncompliance with the business rules and a lack of control procedures over SBC Ohio's performance metrics data. It is for this reason that the E&Y audit resulted in a "qualified" opinion. WorldCom states that E&Y delineated 53 noncompliance exceptions where SBC Ohio took corrective action and restated the March-May performance metrics results, 52 noncompliance exceptions where SBC Ohio asserted that corrective action was taken but the results were not restated, two exceptions where SBC Ohio took corrective action but not yet reported, six exceptions where no corrective action is planned by SBC Ohio, and 15 exceptions that are in the process of being corrected by SBC Ohio. WorldCom, therefore, concludes that the commercial data presented by the E&Y is inadequate and does not demonstrate nondiscriminatory treatment.

WorldCom asserts that the fact that SBC Ohio Ehr's commercial data demonstrates an almost perfect performance (close to 100 percent) on the 20 metrics ordered by the FCC during the merger does not justify minimizing the impact that the other 130 metrics have on a CLEC's business. WorldCom believes that even a failure of one metric could have a large impact on a particular CLEC's business. WorldCom, therefore, recommends that the PUCO examine all 150 metrics when evaluating SBC Ohio's compliance with the competitive checklist. WorldCom further recommends that the PUCO not rush in making its decision based on the E&Y report and three months of inadequate commercial data, but rather wait until the BearingPoint PMR test has been successfully concluded.

5. OCC Initial Comments/Affidavits (filed on February 5, 2003)

OCC states that the E&Y audit findings are consistent with certain BearingPoint test findings in regard to performance metrics data. OCC points to the E&Y finding that there are several instances of noncompliance with the PUCO-adopted business rules. OCC further states that the E&Y audit does not address all performance metrics aspects as described in the Ohio MTP, and therefore, should have very little relevance in this proceeding.

OCC states that SBC Ohio did not provide a discussion of why the "military style" test agreed to more than two years ago is no longer valid for this proceeding. OCC further states that SBC Ohio fails to present evidence as to how minimal the impact of SBC Ohio's noncompliance with specific performance metrics is on a CLEC's business. OCC avers that, Since SBC Ohio is not a CLEC in Ohio, and since its business objectives are fundamentally different from the CLEC's business objective, SBC Ohio Ehr's opinion should also be irrelevant in this proceeding.

6. SBC Ohio Reply Comments/Affidavits (filed on February 14, 2003)

SBC Ohio states that the E&Y audit report provides the PUCO with assurance that the commercial data in SBC Ohio Ehr's affidavit is reliable. SBC Ohio challenges the request by

the CLECs and OCC for the PUCO to discount the information provided in the E&Y audit and the commercial data for the months of September-November, 2002. SBC Ohio questions the CLECs' request for the PUCO to ignore E&Y's findings where SBC Ohio is in compliance and to accept E&Y's findings where SBC Ohio is not in compliance. SBC Ohio believes that E&Y conducted an independent and extensive audit of SBC's compliance with the PUCO-adopted business rules. SBC Ohio further believes that it has either taken corrective action or will soon take corrective action on E&Y identified noncompliance instances.

As for the commercial data presented by SBC Ohio Ehr, the company dismisses the CLECs' desire for the PUCO to consider performance metrics that have satisfied the PUCO-adopted standards as unreliable, but at the same time to consider as noncompliance, missed performance metrics based on the same evidence. SBC Ohio asserts that the commercial data provided demonstrates, in most cases, compliance with the performance metrics standards. As for performance metrics standards that are not met, SBC Ohio asserts that the net difference is insignificant enough so as not to affect the overall evidence of compliance.

SBC Ohio disagrees with the CLECs' statements in regard to the quality of the E&Y audit. SBC Ohio attests that E&Y has been an SBC auditor appointed by the FCC to audit performance metrics since the merger. E&Y audits have been relied upon by the FCC in other Section 271 applications. SBC Ohio also disagrees with the CLECs' claim that E&Y simply accepted SBC Ohio's interpretations of the PUCO-adopted business rules as being accurate. On the contrary, SBC Ohio asserts that E&Y delineated SBC Ohio's interpretations in order for the PUCO, and the other parties, to assess the reasonableness of these interpretations.

In conclusion, SBC Ohio believes that the commercial volume, the BearingPoint OSS test results, the E&Y audit, and the commercial performance metrics data, when taken in totality, provide sufficient evidence of SBC Ohio's compliance with the competitive checklist.

7. AT&T and TCG Reply Comments/Affidavits (filed on February 14, 2003)

AT&T states that SBC Ohio and E&Y “jointly and secretly developed” the scope of the audit without getting input from other parties or the PUCO. AT&T further states that, although E&Y, which is also SBC’s financial auditor, was selected by SBC to audit its performance metrics data in Ohio, E&Y has identified a list of noncompliance instances that SBC Ohio has yet to correct. AT&T asserts that SBC Ohio has minimized its discussions of negative findings in the E&Y report, and has instead focused its attention to commercial volumes and commercial data. AT&T recommends that the PUCO order SBC Ohio to satisfy all global exit criteria per the Ohio MTP.

8. WorldCom Reply Comments/Affidavits (filed on February 14, 2003)

WorldCom states that the audit methodology utilized by E&Y is not “rigorous” when compared to the PMR test domain defined in the Ohio MTP. WorldCom asserts that the record in the E&Y audit is not fully developed for the PUCO to determine the quality and robustness of the three months of performance metrics commercial data.

9. OCC Reply Comments/Affidavits (filed on February 14, 2003)

OCC states that although SBC has made substantial payments to the federal government as a result of its remedy plan, SBC’s level of wholesale performance has continued to decline. OCC states that SBC paid approximately \$6 million in January, 2003 for performance metrics violations during the period September-November of 2002; the same period covered by SBC Ohio Ehr’s affidavit.

OCC argues that, unlike the BearingPoint OSS test, the E&Y audit was not conducted under the general supervision of the PUCO and its Staff. Therefore, OCC concludes that the results of the E&Y audit cannot be relied upon in formulating its decision in this case.

PUCO Discussion

The general dispute raised in the comments is whether or not the E&Y audit and the commercial data presented by SBC Ohio Ehr's Affidavit should be used by the PUCO in forming its opinion in this case. SBC Ohio states that the purpose of the introduction of the E&Y audit is not to substitute for PMR1, PMR4, and PMR5 but, rather, to supplement the performance metrics record and to assure the PUCO that the performance metrics data presented can be relied upon for the purpose of the competitive checklist.

The CLECs and OCC take the position that the E&Y audit 1) does not have the depth and breadth of the BearingPoint PMR test, 2) does not validate the commercial performance metrics data that are presented by Mr. Ehr since it encompasses a different time frame, 3) is "self-serving" and "circular", and 4) is developed by SBC Ohio and E&Y without collaboration from the PUCO and the Ohio CLECs. The CLECs and OCC point to the fact that even E&Y provided a "qualified" opinion inasmuch as E&Y found several serious noncompliance issues; such as the lack of sufficient control procedures to ensure accuracies for several performance metrics.

The PUCO believes that the E&Y audit is not a substitute for BearingPoint's PMR1, PMR4, and PMR5 modules of the PMR test domain. The E&Y testing approach for data integrity, reliability, and accuracy does not include the stringent requirements of the PMR test criteria per the Ohio MTP. A review of SBC Ohio's highly complex source code (E&Y's approach), for example, is not equivalent to BearingPoint's approach of independently developing its own source code. Additionally, neither the PUCO nor its staff were involved in the selection of E&Y, the development of the scope of the E&Y audit, or in the administration of the E&Y audit.

The PUCO is concerned with the fact that even the E&Y audit results include several negative findings (exceptions) that have yet to be addressed or retested. Furthermore, these exceptions impact about 50 PUCO-adopted performance metrics (Exceptions to Compliance,

Attachment A of the E&Y Ohio Audit). The PUCO is also concerned with the fact that the E&Y audit does not verify the accuracy, reliability, and integrity of SBC Ohio's performance metrics data presented in SBC Ohio Ehr's Affidavit for the months of September, October, and November 2002.

Therefore, the PUCO disagrees with SBC Ohio that the E&Y audit provides increased assurance in regard to the integrity, reliability, and accuracy of the commercial data that are presented in the SBC Ohio Ehr Affidavit. As a result, the PUCO will not rely on the E&Y audit results in formulating its recommendation in this proceeding.